

DISTRICT OF TEXAS CIVIL RIGHTS COMPLAINT (Rev. 05/2015)

United States District Court  
Southern District of Texas

FILED

JUL 31 2017

IN THE UNITED STATES DISTRICT COURT  
FOR THE Southern DISTRICT OF TEXAS  
Houston DIVISION

JOSHUA W. PARRISH #1619201

David J. Bradley, Clerk of Court

Plaintiff's Name and ID Number

ELLIS UNIT

Place of Confinement

CASE NO. \_\_\_\_\_

(Clerk will assign the number)

v.

LORIE DAVIS, CID, Director, PO Box 99, Huntsville, Tx. 77342;

Defendant's Name and Address

MICHAEL A. ROESLER, CHARLES H. LANDIS, LINCOLN E. CLARK, TIMOTHY M. PREI-  
SCHEL, ERNEST NAVARRETE, JAMES E. BERRY, FREDERICK J. MCCULLOUGH, JAN  
A. GUSTAFSON, SCOTT C. TUCKER, TONI DEER, BETTY WILLIAMS, Gwendolyn Charvet  
JAMES COLEMAN, Ellis Unit, 1697 FM 980, Huntsville, Tx. 77343

Defendant's Name and Address

(DO NOT USE "ET AL.")

## INSTRUCTIONS - READ CAREFULLY

## NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the clerk of the United States district court for the appropriate district of Texas in the division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. If you are confined in the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), the list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate district court, the division and an address list of the divisional clerks.

**FILING FEE AND *IN FORMA PAUPERIS* (IFP)**

1. In order for your complaint to be filed, it must be accompanied by the statutory filing fee of \$350.00 plus an administrative fee of \$50.00 for a total fee of \$400.00.

2. If you do not have the necessary funds to pay the fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis*, setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six-month history of your inmate trust account. If you are an inmate in TDCJ-CID, you can acquire the application to proceed *in forma pauperis* and the certificate of inmate trust account, also known as *in forma pauperis* data sheet, from the law library at your prison unit.

3. The Prison Litigation Reform Act of 1995 (PLRA) provides "... if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." See 28 U.S.C. § 1915. Thus, the court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the court will apply 28 U.S.C. § 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your inmate trust account, until the entire \$350.00 statutory filing fee has been paid. (The \$50.00 administrative fee does not apply to cases proceeding *in forma pauperis*.)

4. If you intend to seek *in forma pauperis* status, do not send your complaint without an application to proceed *in forma pauperis* and the certificate of inmate trust account. Complete all essential paperwork before submitting it to the court.

**CHANGE OF ADDRESS**

It is your responsibility to inform the court of any change of address and its effective date. Such notice should be marked "NOTICE TO THE COURT OF CHANGE OF ADDRESS" and shall not include any motion for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

**I. PREVIOUS LAWSUITS:**

A. Have you filed any other lawsuit in state or federal court relating to your imprisonment? YES X NO

B. If your answer to "A" is "yes," describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)

1. Approximate date of filing lawsuit: \_\_\_\_\_

2. Parties to previous lawsuit:

Plaintiff(s) \_\_\_\_\_

Defendant(s) \_\_\_\_\_

3. Court: (If federal, name the district; if state, name the county.) \_\_\_\_\_

4. Cause number: \_\_\_\_\_

5. Name of judge to whom case was assigned: \_\_\_\_\_

6. Disposition: (Was the case dismissed, appealed, still pending?) \_\_\_\_\_

7. Approximate date of disposition: \_\_\_\_\_

II. PLACE OF PRESENT CONFINEMENT: Ellis Unit, 1697 FM 980  
Huntsville, Tx. 77343.

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted all steps of the institutional grievance procedure? ☒ YES ☐ NO

Attach a copy of your final step of the grievance procedure with the response supplied by the institution.

IV. PARTIES TO THIS SUIT: Ellis Unit, 1697 FM 980, Huntsville, Tx. 77343.

A. Name and address of plaintiff: Joshua W. Parrish, # 1619201

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: Lorie Davis, CID-Director.  
PO Box 99, Huntsville, Tx. 77342.

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Ms. Davis, is total responsible for the action and care of the employees

Defendant #2: Michael A. Roesler, Senior Warden; Charles H. Landis &  
Lincoln E. Clark, both Assistant Warden of Ellis Unit, 1697 FM 980,  
Huntsville, Tx. 77343.

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

All three Wardens are responsible for the employees on their unit.

Defendant #3: Ernest Navarrete & Timothy M. Preischel both are Majors  
of Ellis is responsible for the employees action and attitudes. Ellis  
Unit, 1697 FM 980, Huntsville, Tx. 77343.

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #4: James E. Berry, Frederick J. McCullough & Jan A. Gustafson  
are Lt., assigned at the Ellis Unit, 1697 FM 980, Huntsville, Tx. 77343.

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

All three Lt., conspired together to violate plaintiff's civil rights.

Defendant #5: Toni Deer, Betty Williams and Gwendolym Charvet and James  
Coleman was deliberate indifference toward plaintiff medical need at  
Ellis Unit, 1697 FM 980, Huntsville, Tx. 77343.

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

All four of these defendants denied plaintiff proper medical treatment.



Texas Department of

ice

OFFICE USE ONLY

**STEP 1****GRIEVANCE FORM**

CL-316B

Offender Name: JOSHUA PARRISH TDCJ # 1619201  
 Unit: Ellis Housing Assignment: ~~CC-115B~~  
 Unit where incident occurred: \_\_\_\_\_

Grievance #: 2016 199584  
 Date Received: AUG 22 2016  
 Date Due: 10-06-16  
 Grievance Code: 602  
 Investigator ID #: 1523  
 Extension Date: \_\_\_\_\_  
 Date Retd to Offender: OCT 03 2016

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

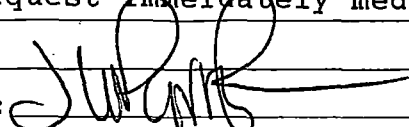
Who did you talk to (name, title)? PA Deer Medical Department When? 8/10/16  
 What was their response? Nothing.  
 What action was taken? Nothing.

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate. On Aug. 10, 2016, Grievant was working in the field cutting down trees with a pick axe grubbing hoe when Grievant felt a pop in his lower back. Grievant immediately went to his field Officer Mr. Scott C. Tucker and told him what happening. Mr. Tucker immediately told the field Lieutenant who instructed Grievant to take it easy and sit in the shade till we leave. When we finally gotten back to the building. The field officer took Grievant to the medical department, Once we gotten there a Nurse asked Grievant a few questions about what happening and asked Grievant to sit in the "chain" after about 3 minute she left to go to talk to Ms. Deer, a medical PA. When the Nurse returned from talking to Ms. Deer. She Quoted: "... if Grievant could get in and out of the "chain" on his own..... there couldn't possible be anything wrong..." Unquoted. Ms. Deer acted deliberate indifference to Grievant's back injury and refused to see Grievant. When Ms. Deer intentionally place Grievant in Dangerous surroundings, when they intentionally ignore Grievant's serious medical needs or when they are deliberately indifference either to Grievant's Health and Safety. Due to the seriously of the back pain Grievnat has being going back and forward to the medical department for medical treatment and Ms. Deer has refused to see Grievant or treat his back pain. A serious medical need is present whenever the failure to treat Grievant's conditions could result in further significant injury or the unnecessary and wanton infliction of pain. Medical conditions that falls well short of life-threatening can nevertheless constitute "serious medical needs", if they result in pain or loss of function. AUG 22 2016

AUG 22 2016

Action Requested to resolve your Complaint.

Grievant request immediately medical treatment for his back pain.

Offender Signature: 

Date: 8/21/16

Grievance Response:

Review of your medical record shows you were seen on 08/10/16 for a complaint of back pain. You were evaluated and given non-aspirin for pain. You were evaluated again on 08/11/16 and observed walking with a steady gait, sit and rise with ease and no facial grimacing. Based on your evaluation it was determined no medical treatment was necessary. This grievance is denied and no further action is warranted at this time.

Signature Authority: 

Date: 9-28-16

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: \*Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. \*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments. \*
- ☐ 5. No documented attempt at informal resolution. \*
- ☐ 6. No requested relief is stated. \*
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. \*
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # \_\_\_\_\_
- ☐ 10. Illegible/Incomprehensible. \*
- ☐ 11. Inappropriate. \*

UGI Printed Name/Signature: \_\_\_\_\_

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: \_\_\_\_\_

**OFFICE USE ONLY**

Initial Submission UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**2<sup>nd</sup> Submission** UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**3<sup>rd</sup> Submission** UGI Initials: \_\_\_\_\_

Grievance #: \_\_\_\_\_

Screening Criteria Used: \_\_\_\_\_

Date Recd from Offender: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_





## Texas Department of Criminal Justice

## STEP 2

OFFENDER  
GRIEVANCE FORM

Offender Name: JOSHUA PARRISH TDCJ # 1619201  
 Unit: ELLS ✓ Housing Assignment: C16-3165 ✓  
 Unit where incident occurred: ELLS

NOV 28 2016

## OFFICE USE ONLY

Grievance #: 2016 199584  
 UGI Recd Date: OCT 12 2016  
 HQ Recd Date: OCT 17 2016  
 Date Due: 11.26  
 Grievance Code: 602  
 Investigator ID#: \_\_\_\_\_  
 Extension Date: \_\_\_\_\_

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

NOV 28 2016

Give reason for appeal (Be Specific). I am dissatisfied with the response at Step 1 because...

I AM DISSATISFIED WITH THE RESPONSE AT STEP 1, BECAUSE MS. DAVIS NEVER ADDRESSED THE ALLEGATION. MS. DEER ACTED DELIBERATE INDIFFERENCE TO GRIEVANT'S BACK INJURY AND REFUSED TO SEE GRIEVANT. WHEN MS. DEER INTENTIONALLY PLACE GRIEVANT IN DANGEROUS SURROUNDINGS, WHEN THEY INTENTIONALLY "IGNORE" GRIEVANT'S SERIOUS MEDICAL NEEDS OR WHEN THEY ARE DELIBERATELY INDIFFERENT EITHER TO GRIEVANT'S HEALTH AND SAFETY. DUE TO THE SERIOUSLY OF THE BACK PAIN GRIEVANT HAS BEEN GOING BACK AND FORWARDED TO THE MEDICAL DEPARTMENT FOR MEDICAL TREATMENT AND MS. DEER HAS REFUSED TO SEE GRIEVANT OR TREAT HIS BACK PAIN. A SERIOUS MEDICAL NEED IS PRESENT WHENEVER THE FAILURE TO TREAT GRIEVANT'S CONDITIONS COULD RESULT IN FURTHER SIGNIFICANT INJURY OR THE UNNECESSARY AND WANTON INFLECTION OF PAIN. MEDICAL CONDITIONS THAT FALLS WELL SHORT OF LIFE-THREATENING CAN NEVERTHELESS CONSTITUTE "SERIOUS MEDICAL NEEDS", IF THEY RESULT IN PAIN OR LOSS OF FUNCTION.

Offender Signature: Date: 10-11-16

Grievance Response:

A review of the Medical Grievance has been completed regarding your complaint to have immediate medical treatment for your back pain.

Appellate review of your Health Record shows on 10/24/2016, you were evaluated by the unit provider for your complaint of wanting to have your back checked due to severe pain and discomfort. The provider observed you were unable to flex and extend from the waist line and appeared to be stiff. The plans from this visit show lower back X-rays were ordered, you were prescribed Pamelor and advised to continue to take Naproxen as previously ordered. On 11/02/2016, you signed a Refusal of Treatment form regarding review of your X-rays. You were seen by the unit provider on 11/04/2016, at which time the X-ray result was explained to you. You were observed to have a steady gait and advised to continue Naproxen as prescribed.

If you feel your condition has changed or warrants further evaluation, submit a Sick Call Request to discuss your concerns with a licensed medical provider. 2.01

**STEP II MEDICAL GRIEVANCE PROGRAM  
OFFICE OF PROFESSIONAL STANDARDS  
TDCJ HEALTH SERVICES DIVISION**

Signature Authority: \_\_\_\_\_

Date: 11-10-16Returned because: *\*Resubmit this form when corrections are made.*

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.\*
- ☐ 3. Originals not submitted.\*
- ☐ 4. Inappropriate/Excessive attachments.\*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.\*

CGO Staff Signature: \_\_\_\_\_

**OFFICE USE ONLY****Initial Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**2<sup>nd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

**3<sup>rd</sup> Submission**

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

## STATEMENT OF CLAIMS

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

**SEE ATTACHMENT**

## VI. RELIEF:

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

**SEE ATTACHMENT**

## VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases.

**None.**

B. List all TDCJ-CID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you.

**None.**

## VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? YES x NO

B. If your answer is "yes," give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): \_\_\_\_\_

2. Case number: \_\_\_\_\_

3. Approximate date sanctions were imposed: \_\_\_\_\_

4. Have the sanctions been lifted or otherwise satisfied? YES NO



1. Has any court ever ~~warned~~ or notified you that sanctions could be imposed? YES ☒ NO

2. If your answer is "yes," give the following information for every lawsuit in which a warning was issued. (If more than one, use another piece of paper and answer the same questions.)

1. Court that issued warning (if federal, give the district and division): \_\_\_\_\_

2. Case number: \_\_\_\_\_

3. Approximate date warning was issued: \_\_\_\_\_

Executed on: 7/27/17  
DATE

J. Parri  
(Signature of Plaintiff)

### PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand, if I am released or transferred, it is my responsibility to keep the court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions or appeals (from a judgment in a civil action) in a court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire filing fee and costs assessed by the court, which shall be deducted in accordance with the law from my inmate trust account by my custodian until the filing fee is paid.

Signed this 27 day of July, 20 17.  
(Day) (month) (year)

J. Parri  
(Signature of Plaintiff)

**WARNING:** Plaintiff is advised any false or deliberately misleading information provided in response to the above questions may result in the imposition of sanctions. The sanctions the court may impose include, but are not limited to, monetary sanctions and the dismissal of this action with prejudice.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

JOSHUA PARRISH,

Plaintiff,

Vs.

LORIE DAVIS, MICHAEL A. ROESL-  
ER, CHARLES H. LANDIS, LINCO-  
IN E. CLARK, TIMOTHY M. PREI-  
SCHEL, ERNEST NAVARRETE, JAMES  
E. BERRY, FREDERICK J. MCCULL-  
OUGH, JAN A. GUSTAFSON, SCOTT  
C. TUCKER **sued in their off-  
ficial capacities, and**  
TONI DEER, BETTY WILLIAMS,  
GWENDOLYN CHARVET and JAMES  
COLEMAN **sued in their individ-  
ual capacities,**

Defendants.

C.A. NO. \_\_\_\_\_

**COMPLAINT WITH JURY DEMAND**

This is a civil rights action filed by **JOSHUA PARRISH**,  
a prisoner, for damages and injunctive relief under 42 U.S.C.  
§ 1983, alleging denial of medical care in violation of the  
Eighth Amendment to the United States Constitution

**JURISDICTION**

1. The court has jurisdiction over the plaintiff's claims  
of violation of federal constitutional right under 42 U.S.C.  
§§ 1331(1) and 1343.

**PARTIES**

2. The Plaintiff, JOSHUA PARRISH, is incarcerated at Ellis  
Unit of the Texas Department of Criminal Justice - Institutional  
Division, during the events described in this complaint.

3. Defendant, LORIE DAVIS, is the CID Director, of the Texas Department of Criminal Justice - Institutional Division. she is responsible for the development and oversight of all policies and practices, including medical and nutritional care in all TDCJ-CID facilities and the monitoring and oversight of health care service that have been contracted out to private providers. She is responsible for ensuring that TDCJ-CID prisons operate in a manner that is consistent with the United States Constitution. She is sued in her official capacity. AT ALL TIME DESCRIBED HEREIN, SHE WAS ACTING UNDER COLOR OF STATE LAW.

4. Defendant, MITCHAEAL A. ROESLER, is the warden of the Ellis Unit of the Texas Department of Criminal Justice - Institutional Division. At all time described herein, he was acting under color of State law. He is sued in his official capacity for declaratory and injunctive relief.

5. Defendants, CHARLES H. LANDIS AND LINCOLN E. CLARK, is the Assistant Wardens assigned to the Ellis Unit of the Texas Department of Criminal Justice - Institutional Division. At all time described herein, was acting under color of State law. They are being sued in their official capacity for declaratory and injunctive relief.

6. Defendants, TIMOTHY M. PRIESCHEL AND ERNEST NARARRETE, majors assigned at the Ellis Unit of the Texas Department of Criminal Justice - Institutional Division. At all time described herein. They was acting under color of State law. They are being sued in their official capacity for declaratory and injunctive relief.

7. Defendants, JAMES E. BERRY, FREDERICK J. MCCULLOUGH and JAN A. GUSTAFSON, Lieutenants assigned at the Ellis Unit of the Texas Department of Criminal Justice - Institutional Division. At all time described herein. They was acting under color of State law. They are sued in their official capacity for declaratory and injunctive relief.

8. Defendant, SCOTT TUCKER, Correctional Officer assigned at the Ellis Unit of the Texas Department of Criminal Justice - Institutional Division. At all time described herein. He is acting under color of State Law. He is being sued in his official capacity for declaratory and injunctive relief.

9. Defendants BETTY WILLIAMS AND JAMES COLEMAN, Medical Doctors assigned at the Ellis Unit of the Texas Department of Criminal Justice - Institutional Division. At all time described herein. They are sued in their individual and Official capacities.

10. Defendant, TONI DEER is a Medical PA is and was assigned to the Ellis Unit of the Texas Department of Criminal Justice Institutional Division. She was acting under color of State law. She is sued in her individual capacity.

11. Defendant, GWENDOLYN CHARVET, is a Medical Nurse assigned at the Ellis Unit of the Texas Department of Criminal Justice-Institutional Division. She was acting under color of State law. She is sued in her individual capacity.

12. All the defendants have acted, and continue to act, under color of state law at all time relevant to this complaint.

#### FACTS

13. On August 10, 2016, at around 10:30 a.m., Plaintiff was working in outside field force squad. Plaintiff were working in the woods digging out trees and tree stumps and cutting down trees with axes, pick axes and grubbing hoes.

14. At around 10:30 a.m., Plaintiff was digging out a tree stump that was around 6 feet tall and 3 feet wide, weighing approximately 600 - 800 pounds give or take. Plaintiff were pulling out of the ground when Plaintiff felt a pop in his lower back.



15. Within minutes of the accident. Plaintiff was in extreme pain and started feeling numbness down his left leg from lower left side of back to left knee cap.

16. Plaintiff stoped doing what Plaintiff was doing and immediately notified his supervisor. Correctional Officer Scott Tucker and told him what happened.

17. Correctional Officer Tucker told plaintiff to go sit in the shade why he went to his supervison Lt. Jan. A. Gustafson, who returned to where Plaintiff was as again asked plaintiff what happened.

18. Plaintiff told Lt. Gustafson what happened and explained to him what plaintiff did and what plaintiff was feeling. He told plaintiff that if plaintiff would wait here in the shade until around 11:30 a.m., when the field force would normally turn back in to the building. He would take plaintiff to medical. But that if plaintiff wantd the van to come get plaintiff from the unit right now, that he would do that to, but that, [he would write plaintiff a disciplinary case.]

19. Plaintiff choose to sit and wait in the shade till around 11:30 a.m., when the rest of the squards would turn in so that [plaintiff wouldn't receive a disciplinary case].

20. When the field squads arrived back on the Unit, Plaintiff's supervisor Correctional Officer Tucker took plaintiff to the medical Department. Nurse Gwendolyn Charvet had plaintiff sit in the vitals chair "blood pressure and temp" and took plaintiff's vitals.

21. Nurse Charvet then told plaintiff and his supervisor Tucker that she would go talk to P.A. Ms. Deer about plaintiff's situation. Nurse Charvet returned about 10 min later.

22. At this time, Plaintiff can barely walk, stand, sit or bend over because the pain is at about an 8 on a scale of 1-10.

23. Nurse Charvet then returned from speaking with P.A. Ms. Deer. Nurse Charvet said that P.A. Deer said that if Plaintiff was able to walk in on my own that there was no way that plaintiff could have a lower back injury. Nurse Charvet then stated that plaintiff to receive non-aspirin and return back to work the following day.

24. Plaintiff then protested asked who is the one responsible for not giving him medical attention, that plaintiff would file a grievance and contact his family. Nurse Charvet said P.A. Ms. Deer was the one who made the decision to not grant medical attention.

25. Plaintiff asked for an X-Ray, X-Ray denied.

26. Plaintiff was told to get out of medical, that I would not receive an X-Ray or anything other than non-aspirin.

27. Plaintiff was told that if he did not like the decision made that he could definitely file a grievance.

28. Plaintiff was then escorted back to his cell, when Plaintiff returned to his cell Plaintiff was in extreme pain. To try to relieve some of the pain. Plaintiff got a towel wet and laid it down on the concrete floor. Plaintiff then laid down on top of the wet towel with his fan and tried to relax my body to relieve some of the pain.

29. Plaintiff awoke around 5:30 p.m., could not get off of the floor on his own, medical personnel was called and small team of TDCJ Officers and Nurse Charvet returned to plaintiff's cell.

30. The Officers asked plaintiff what was wrong. Plaintiff explained what plaintiff was feeling and what happened earlier at work.

31. The Officers asked plaintiff if he could get up and get into the wheel chair. Plaintiff told them that plaintiff could not do it on his own, that he would need help.

32. Two of the Officers, namely, Lt. James E. Berry and Lt. Frederick J. McCullough entered plaintiff's cell with two other "John Doe's Officers and assisted plaintiff in getting off the floor and getting in the wheel chair.

33. The Officers then escorted plaintiff back to medical. Nurse Charvet asked plaintiff to get into the vitals chair again. Plaintiff stated that plaintiff don't think that he could do it alone that he would probably need some assistance.

34. Lt. James E. Berry told plaintiff that if he did not do it on his own that plaintiff would be dragged to the chair. Lt. Berry stated that the choice is plaintiff.

35. Plaintiff then tried to explain that plaintiff was not faking this and that there was seriously something wrong with plaintiff's back.

36. At this point, Plaintiff was ignored once again. Lt. James E. Berry then got behind plaintiff and put his arms underneath plaintiff's arms pits and proceeded to jerk plaintiff up out of the wheel chair, while Lt. Frederick J. McCullough

yanked the wheel chair out from under plaintiff. Lt. Berry then literally drug plaintiff over to the vitals chair and dropped plaintiff into it.

37. Nurse Charvet then took plaintiff's vitals. She then stated that she was the only one on duty at this time and that she would have to call the unit provider.

38. Doctor Williams said that plaintiff was faking it, that plaintiff would not get out of work. She order 2 non-aspirin with no medical treatment. Doctor Williams stated that plaintiff was fine to return back to his cell.

39. Lt. Berry and Lt. McCullough told plaintiff that plaintiff had about 2 min to gather the strenght plaintiff would need to get plaintiff back to his cell. Plaintiff did not want to further injure his back with more of a confirmation with these two Lieutenants so plaintiff mustered what little strenght plaintiff had and manage to walk back to his cell.

40. Plaintiff was completly denied any medical attention for a work related back injury that happened working in the field force.



41. On the following day, Aug. 11, 2016, Plaintiff was scheduled to Medical P.A. Deer once again. Again Ms. Deer stated that if Plaintiff could walk on his own two feet that there was no way, Plaintiff could have a back injury. Once again X-Ray and Medical attention denied.

42. On Aug. 11, 2016, Plaintiff was apparently observed walking with a steady gait. But if they would have taking a little time to look at plaintiff's medical records at first. Those medical records would have revealed from TDCJ Braces and Limbs documents that plaintiff's left leg is actually  $\frac{1}{2}$  longer than his right leg. Therefore, there is no way that they could have made that observation because that is a blatant lie because Plaintiff already have a natural limp.

43. Furthermore on Aug. 11, 2016, Plaintiff could barely move much less walk on his own. Plaintiff was in extreme pain and stiff from lower abdomen to knee, and could no longer bend over at all.

44. Plaintiff stayed this way until around 11/20/2016.

45. They forced plaintiff to work in the field force this whole time and the only reason the Plaintiff was able to do that was because he was one of his supervisor best worker.

46. On Aug. 10, 2016, Plaintiff filed a Step 1 Grievance regarding the situation and circumstances. Plaintiff filed a complaint against P.A. Ms. Deer for deliberately indifference.

47. Plaintiff filed a Step 2 Grievance. Both Step 1 & 2 grievances was denied.

48. On 10/24/2016, Plaintiff was seen again regarding the same situation lower back pain for work related injury. This time, Plaintiff was seen by a new P.A. Ms. Rosemary N. Ofili. Plaintiff explained to her the same situation and the problems Plaintiff having. She said, Well, lets look at your X-Rays. Plaintiff told her that there were none ordered. She asked me why, plaintiff told her that they did not take one. She said on a lower back injury such as plaintiff describe, that an X-Ray should have been ordered first thing to determine severity of the accident of the lower back injury. She then ordered X-Ray,

49. On 11/02/2016, Plaintiff was scheduled to see P.A. Deer about the X-Ray Ms. Ofili ordered. But because of the present situation with the Step 1 & 2 Grievances against Ms. Deer. Plaintiff felt this was a conflict of interest, and refused to see Ms. Deer.

50. Plaintiff was reschedule. On 11/04/2016 Plaintiff was scheduled to see Ms. Ofili again about the X-Ray results.

51. Ms. Ofili stated well she see whay you are in so much pain, you have multilevel mild degenerative change in the form of scattered "Schmorls" nodes and end plates scelerosis.

52. Ms. Ofili said that a "surgery was needed. She said that if the X-Ray showed this much damages, that an MRI was defently needed, but that orthopedics would have to approve that. She schedule plaintiff to see Ortho on 11/04/2016.

53. On Dec. 2016, Plaintiff was scheduled again to see M.D. Coleman about my lower back problems. We then talked about surgery options, a few medications were ordered. Still no other appointment.

54. Dr.Coleman did state at this time that my back was ineed damaged and surgery was an option, but lets wait and see what Ortho finds.

55. Since Aug 10, 2016, Plaintiff have been dealing with extreme and unnecessary pain and suffering. Sometimes pain is so servere that plaintiff don't leave his cell for days because plaintiff can barely get out of his bunk.

56. On June 23, 2016, Plaintiff was again seen by Medical P.A. Ms. Jackson regarding same situation, and some new discovered problems. Plaintiff showed her his left thigh that plaintiff was loosing muscle mass. She measured both of my legs and said that my left quardriceps in complete atrophy due to this lower back injury.

57. On June 23, 2016, P.A. Ms. Jackson again scheduled plaintiff to go to orthopedics to have an extensive overreview of my lower back. No set date yet.

58. This is now 11 months of unnecessary and suffering that has led to further complications. Plaintiff's back is getting worse every day. The pain has become a constant thing mentally now as much as physical.

59. Plaintiff have not sleep more than 2 hours at a time without having to readjust himself.

UPON INFORMATION AND BELIEF

Upon information and belief. Ms. Williams and Ms. Deer have both had numerous medical complaints, grievances and refusals of treatment filed against them, for their unprofessional conduct in treating or refusing to treat others.

Plaintiff have knowledge of at least one other individual here on the O.B.Ellis Unit that has the same problem with this medical treatment, or lack thereof. With his back and he ultimately had to have major back surgery to remove multiple herniations in his lower back. Plaintiff know of at least one other 1983 claim against Ms. Betty Williams and Ms. Toni Deer that will be coming from or already came from the O.B.Ellis Unit. Plaintiff have had to ensure exoraciating and crippling pain for nearly a year now due to their refusal to properly treat my medical issues. With all the complaints, grievance and refusals signed against Ms. Williams and Ms. Deer, their supervisors, the unit Administration or her employer U.T.M.B. should have investigated what the problems were and removed them from their positions befor they could cause bodily harm to anyone under their medical care. Their deliberate indiffernce toward my back injury has allowed plaintiff to go thru pain and suffering in every possible way. Physically mentally and emotionally. All of which they could have prevented with proper medical attention and treatment.

#### EXHAUSTION OF ADMINISTRATIVE REMEDIES

60. The Plaintiff has exhausted his administrative remdies with respect to all claims and all defendants.



CLAIMS FOR RELIEF

61. The action of defendant Davis, CID Director. She is responsible for all of TDCJ employees. Therefore, is liable for defendants Roesler, Landis, Clark, Preischel, Navarrete, Berry, McCullough, Gustafson, Tucker, Williams, Charvet and Coleman actions for violates of plaintiff constitutional right as a result Lorie Davis's mismanagement of subordinates constituted cruel and unusual punishment in violation of the Eighth Amendment of the United States Constitution.

62. The action of defendants Roesler, Landis, Clark, Preischel and Navarrete, for develops an unconstitutional policy and allow an unconstitutional policy to continue constituted cruel and unusual punishment in violation of the Eighth Amendment of the United States Constitution.

63. The action of defendants Berry, McCullough, Gustafson, Tucker for develops an unconstitutional policy and allow an unconstitutional policy to continue constituted cruel and unusual punishment in violation of the Eighth Amendment of the United States Constitution.

64. The action of defendants, Deer, Williams, Coleman and Charvet constituted deliberate indifference to plaintiff's medical need, plaintiff suffered further pain and mental

anguish. He continued to suffer from back pain and general pain throughout his body, and Dr. Williams, Dr. Coleman, P.A. Deer and Nurse Charvet denied him medical treatment and refused to provide adequate pain medication. In addition, plaintiff was unable to sleep for weeks because of the denial of medical treatment constituted deliberate indifference to serious medical need of prisoner constitutes the "unnecessary and wanton infliction of pain....proscribed by the Eighth Amendment.


RELIEF REQUESTED

WHEREFORE, plaintiff request that the Court grant the following relief:

- A. Issue a declaratory judgment stating that:
  - 1. The denial of medical treatment by the defendants and each of them, violated the plaintiff's rights under the Eighth Amendment to the United States Constitution and constituted deliberate indifference.
  - 2. The defendants and each of them in failing to provide adequate medical care for the plaintiff violated, and continue to violate, the plaintiff's rights under the Eighth Amendment to the United States Constitution.
- B. Issue an injunction ordering defendants, Coleman, or their agents to:
  - 1. Immediately arrange for the plaintiff need medical treatment.
  - 2. Carry out without delay the treatment directed by such medical practitioner.
- C. Award compensatory damages in the amount of \$500,000
- D. Award punitive damages in the amount of \$50,000 from each of the defendants.

E. Grant such other relief as it may appear that plaintiff is entitled.

Respectfully Submitted

  
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JOSHUA PARRISH  
TDC No. # 1619201  
Ellis Unit  
1697 FM 980  
Huntsville, Tx. 77343

Dated: 7/27/17